

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

FELIX SAFAI,)
Plaintiff,)
v.) Case No. 23-
SPECTRUM BRANDS HOLDINGS, INC.,)
Defendant.)

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Spectrum Brands Holdings, Inc. (“SBHI” or “Defendant”) hereby removes this action, which had been pending in the Stoughton District Court, Commonwealth of Massachusetts, to the United States District Court for the District of Massachusetts. As grounds for removal, SBHI states the following:

1. Statement Of the Case:

This is a product liability action brought by Plaintiff Felix Safai for personal injuries allegedly sustained on or about September 17, 2020. Plaintiff alleges that he suffered “painful, itchy skin rashes and lesions all over his body” after using a pesticide product called “Hot Shot No-Mess! Fogger” (the “Product”). Plaintiff alleges SBHI designed, manufactured, tested, supplied, sold, and/or distributed the Product. *See Compl.*, ¶¶ 3-5 (attached hereto as Exhibit A).

Plaintiff's Complaint alleges his injuries were caused by SBHI's negligence (Count I), breach of various warranties (Counts II-III), and violations of Mass. Gen. L. c. 93A (Count IV). *See* Compl., ¶¶ 7-23.

2. Basis For Jurisdiction in This Court:

The basis for jurisdiction in this Court is diversity of citizenship under 28 U.S.C. §1332(a). Section 1332(a) provides, in pertinent part, that “[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different states.” Here, there is complete diversity between the adverse parties, and the preponderance of the evidence establishes that that the amount in controversy exceeds \$75,000.

A. The Parties Are Completely Diverse:

Plaintiff is a resident of the Commonwealth of Massachusetts. *See* Compl., ¶ 1. Plaintiff, therefore, is a citizen of the Commonwealth of Massachusetts.

Defendant SBHI is incorporated under the laws of the State of Delaware and maintains its corporate headquarters and principal place of business in the State of Wisconsin. SBHI is, therefore, a citizen of the States of Wisconsin and Delaware, and not a citizen of the Commonwealth of Massachusetts. 28 U.S.C. § 1332(c)(1). *See also* Compl., ¶ 2.

Because Plaintiff is a citizen of the Commonwealth of Massachusetts and SBHI, the only Defendant, is a citizen of states other than Massachusetts, complete diversity exists between the parties. *See* 28 U.S.C. §1332(a)(1).

B. The Amount in Controversy Exceeds \$75,000

Plaintiff’s Complaint alleges damages in excess of \$160,000. *See* Compl., Ex. 1, pp. 1-3 (asserting a pre-suit settlement demand for \$160,000); *see* Fed. R. Civ. P. 10(c) (“A copy of a written instrument that is an exhibit to a pleading is a part of the pleading for all purposes.”). Although SBHI disagrees that Plaintiff is entitled to any recovery in this matter, the amount in

controversy alleged in Plaintiff's pleading exceeds the jurisdictional minimum set forth in 28 U.S.C. § 1332(a).

3. Timeliness Of Removal:

Plaintiff's Complaint was filed on January 18, 2023. SBHI was served by mail received on March 9, 2023. This Notice of Removal, filed on April 5, 2023, is therefore timely filed within the thirty days allotted for removal by 28 U.S.C. § 1446(b)(1).

6. Consent:

By jointly filing this Notice of Removal, SBHI, the sole named Defendant, expressly consents to the removal of this action to the U.S. District Court for the District of Massachusetts.

6. Pleadings and Process:

Under 28 U.S.C. § 1446(a), Defendant is required to file copies of "all process, pleadings, and orders served upon" it. Copies of these documents are attached hereto as Exhibit A (Plaintiff's Complaint and Exhibits). Defendant has not yet filed an answer.

6. Notice Given:

Pursuant to 28 U.S.C. § 1446(d), Defendant will provide timely written notice of the filing of this Notice of Removal to Plaintiff and the Stoughton District Court, Commonwealth of Massachusetts.

SPECTRUM BRANDS HOLDINGS, INC.

By its Attorneys,

CAMPBELL CONROY & O'NEIL, P.C.

/s/ Jacob J. Lantry

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CERTIFICATE OF SERVICE

I, Jacob J. Lantry, counsel for defendant Spectrum Brands Holdings, Inc., hereby certify that on April 5, 2023, I electronically filed the within document using the electronic filing system (ECF), which will be served upon all counsel of record via ECF notice.

/s/ Jacob J. Lantry

Jacob J. Lantry